

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**YVONNE SINKLEAR and  
MONTGOMERY SINKLEAR,**

Plaintiffs,

**v.**

**CIVIL ACTION NO.: 3:15-CV-15  
(JUDGE GROH)**

**UNITED STATES OF AMERICA,**

Defendant.

**ORDER DISMISSING CASE WITHOUT PREJUDICE**

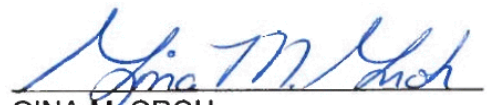
This matter is now before the Court for consideration of the Defendant's Motion to Dismiss, [ECF 5], filed on February 19, 2015. In support of its motion, the Defendant avers this Court lacks subject matter jurisdiction over this action, because the Plaintiffs have failed to exhaust their administrative remedies under the Federal Tort Claims Act ("FTCA"). The Plaintiffs responded to the Defendant's motion on March 4, 2015. In their response, the Plaintiffs state that they do not oppose the motion to dismiss, so long as the relief is dismissal without prejudice. The Plaintiffs argue that they only became aware the original Defendants in this matter were federal employees upon receiving the notice of removal. As the Plaintiffs are now aware that the original Defendants were federal employees pursuant to the FTCA, the Plaintiffs do not oppose the instant motion to dismiss, so long as this matter is dismissed without prejudice.

Accordingly, the Defendant's motion to dismiss is **GRANTED**. It is **ORDERED** that this civil action be, and the same is hereby, **DISMISSED** without prejudice and retired from the docket of this Court.

The parties need not submit any additional proposed dismissal or other final order unless it is required by law or is necessary under the terms of any agreement resolving this civil action.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

**DATED:** March 16, 2015

  
GINA M. GROH  
UNITED STATES DISTRICT JUDGE